

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LISA GARZA,

Plaintiff,

vs

**HARD ROCK CAFÉ INTERNATIONAL
(STP), INC.,**

Defendant.

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CIVIL ACTION NO. 5:18-cv-1053

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COMES NOW Defendant HARD ROCK CAFÉ' INTERNATIONAL (STP), INC. and files this Notice of Removal of the present action from the 131st Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division. In support of this removal, Defendant respectfully offers the court the following facts, evidence, and legal authority.

**I.
INTRODUCTION**

1. This is a slip-and-fall case. Plaintiff assert claims of negligence and premises liability against Defendant for an incident that allegedly took place at the Hard Rock Café location on the San Antonio Riverwalk in San Antonio, Texas. Plaintiff alleges that, on or about October 8, 2016, Plaintiff “sipped on a greasy spot on the floor near the entrance to the kitchen.” See **Exhibit A**.
2. On August 17, 2018, Plaintiff filed this lawsuit in the 131st Judicial District Court of Bexar County, Texas against Defendant Hard Rock Café International (STP), Inc., See **Exhibit A**.

Defendant now files this Notice of Removal because there is complete diversity of citizenship between the parties and Plaintiff alleges damages within the jurisdictional limits of this Court.

II. REMOVAL IS TIMELY

3. Defendant was served with a copy of Plaintiff's Original Petition on September 11, 2018. See **Exhibit B**. Pursuant to 28 U.S.C. § 1446(b)(3), Defendant now timely files this Notice of Removal within thirty (30) days after receipt of Plaintiff's Original Petition. Additionally, Defendant is removing the case within one year of commencement of the action. See 28 U.S.C. § 1446(c)(1).

III. GROUNDS FOR REMOVAL

4. Removal is proper because subject-matter jurisdiction is based upon diversity of citizenship under 28 U.S.C. § 1332(a). Plaintiff has demanded a jury trial. See **Exhibit A**, page 4.

A. Amount in Controversy Exceeds \$75,000.00

5. In her petition, Plaintiff seeks "monetary relief over \$200,000 but not more than \$1,000,000." See **Exhibit A**, page 3. The amount in controversy therefore exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and required under 28 U.S.C. § 1332(a).

B. Complete Diversity of Citizenship Between Plaintiff and Defendants

6. There is also complete diversity of citizenship between all parties to this lawsuit. Plaintiff is alleged to be a citizen of Texas. See **Exhibit A**. Further, the defendant is not a citizen of Texas. Defendant Hard Rock Café International (STP), Inc. (Defendant herein) is a New York corporation with its principal place of business in Davey, Florida. See 28 U.S.C. § 1332(c)(1).

**IV.
VENUE IS PROPER IN SAN ANTONIO**

7. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this District and Division embrace the place where the removed state court action has been pending. Specifically, the 131st Judicial District of Bexar County is located in the San Antonio Division of the United States District Court in the Western District of Texas. 28 U.S.C. § 1441a).

**V.
CONSENT TO REMOVAL**

8. Defendant is the only defendant whom Plaintiff has served as of the date of this removal and is the only defendant sued herein. Defendant hereby consents to this removal.

VI.

9. As required by 28 U.S.C. § 1446(a), the following documents are attached to this Notice of Removal:

Exhibit A: Plaintiff's Original Petition and Request For Disclosure, with attached Plaintiff's First Set of Interrogatories, Request for Production, and Request for Admissions to Defendant

Exhibit B: Services and Returns

10. Upon Filing this Notice of Removal, Defendant will also file its Certificate of Interested Persons, as required by Federal Rule of Civil Procedure 7.1.

11. On filing of this Notice of Removal, Defendant will promptly provide written notice to Plaintiff and file a copy of this Notice of Removal with the clerk of the State court where suit has been pending, as required by 28 U.S.C. § 1446(d).

12. By filing this Notice of Removal, Defendant does not waive any legal defenses, but expressly reserves its rights to raise any and all legal defenses in subsequent pleadings in this Court.

13. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

VII.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Defendant represents it has complied with the removal statutes set forth above and, thus, this case stands removed from the 131st Judicial District Court of Bexar County, Texas to the San Antonio Division of the United States District Court of the Western District of Texas.

Respectfully Submitted,

/s/ Clark S. Butler

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COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that true copies of Defendant's Notice of Removal were served on all known counsel of record as indicated below on the 8th day of October 2018.

Via Electronic Filing

Joshua P. Davis

Katherine M. James

Davis Law Group

1010 Lamar Street, Suite 200

Houston Texas 77002

Counsel for Plaintiff

/s/ Clark S. Butler

CLARK S. BUTLER